



New scientific concepts about consent

Up to now, consent has been focused on verbal language, for example, “no means no” or “anything other than yes is no”. Even though that is a key aspect of the problem, it does not solve most of the issues that arise nowadays, like the famous case of “La Manada” in Spain. Current scientific developments have limited capacity to make analyses with social impact to contribute to the overcoming of non-consensual situations. Austin’s highly relevant contribution of the theory of speech acts, without new developments, reduces the focus of interactions to verbal language. Nevertheless, over the last few years this theory has been complemented by the theory of communicative acts, which includes any and all kinds of interactions, comprehending as well any and all kinds of body languages.

Two are the characteristics of these communicative acts that make them consensual in nature. The first one is that these acts are illocutionary and not perlocutionary; all participants in the act have a common understanding of its purpose without lies or non-clear intentions. The second one is that these acts should be based only on dialogic interactions and not on power interactions. It must be clarified that power interactions can come from institutional power, for example in a relation between a professor and his student or a manager and his employee.

This article presents the most recent results of a nine-year research line which places the problem and the solution in communicative acts and not only in speech acts. Even though there might be a “yes”, there is no consent and it is indeed a coercive relationship if that “yes” has been pronounced in a relation determined by institutional power or by interactive power. There is institutional power if who made the proposal is a person in charge of the process of selecting personnel and one of the candidates is the person who received the proposal. There is interactive power if who makes the proposal is in an inferior position in the company but can make sextortion. The potential social impact of this research has been already shown in the subjects who were interviewed about this topic.

Other power interactions come from interactive power. This is the case, for instance, of a situation in which there are five boys with only one girl (the case of “La Manada”).

This does not necessarily mean that the relationship between two persons with different institutional power or sex between five boys and one girl should be condemned labelled as non-consensual. However, this option has been adopted, among others, by some relevant top universities: to forbid sexual relationships between one professor and his student (institutional option). Nevertheless, other top universities accept this kind of relationships because two adults could be in a free relationship, but always considering that the one in a

position of power will be guilty if the other says that the relationship was not free (personal option). In both options, the case of “La Manada” is clearly rape because the girl says that it was not free, and the five boys knew that they were in a position of power.

Reference:

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